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# Rules on staff representation

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<https://fimportal.de/xzufi-services/102837998/B100019>

Modul	Sachverhalt
Leistungsschlüssel	99154064000000
Leistungsbezeichnung I	Rules on staff representation
Leistungsbezeichnung II	Rules on staff representation
Typisierung	11 - SDG: Allgemeine Rechte und Pflichten
Quellredaktion	Bund
Freigabestatus Katalog	unbestimmter Freigabestatus
Freigabestatus Bibliothek	unbestimmter Freigabestatus
Begriffe im Kontext	
Leistungstyp	Leistungsobjekt
Leistungsgruppierung	SDG allgemeine Rechte und Pflichten (154)
Verrichtungskennung	
SDG-Informationsbereich	Vorschriften für die Arbeitnehmervertretung
Lagen Portalverbund	Personal einstellen (2030200), Arbeitssicherheit (2030500)
Einheitlicher Ansprechpartner	Nein
Fachlich freigegeben am	14.12.2022

Modul	Sachverhalt
Fachlich freigegeben durch	Federal Ministry of Labour and Social Affairs
Handlungsgrundlage	
Teaser	
Volltext	<p><b>**Employee representation**</b></p> <p>In Germany, employee representation involves a number of different bodies and organisational formats that ensure <b>**participation**</b> at operational and corporate level. The <b>**primary task**</b> of staff representation bodies is to defend the interests of the employees of a company or establishment.</p> <p><b>**The role of trade unions**</b> :</p> <ul style="list-style-type: none"> <li>• negotiate <b>**collective agreements**</b> with employers, which, in particular, regulate remuneration, working hours and leave within the company or sector</li> <li>• organise <b>**strikes**</b> in the event of labour disputes, and pay their members strike pay</li> <li>• help set up <b>**works councils**</b></li> <li>• <b>**support**</b> employees <b>**in workplace conflicts**</b> and represent them in disputes with their employer.</li> </ul> <p><b>**Trade union members**</b> are entitled to free legal protection in disputes relating to labour and social law. Membership of a trade union is <b>**voluntary and subject to contributions**</b>. The German Trade Union Confederation (Deutscher Gewerkschaftsbund, DGB) is the umbrella organisation for eight individual trade unions, with a total membership of around 6 million.</p> <p><b>**Tasks of a works council / staff committee / employee representation**</b></p> <p>Above all, co-determination and participation on a works council means having an influence on all issues that directly affect employees at their workplace. Works councils, staff committees (in the public sector) and employee representations (in ecclesiastical institutions) perform the following tasks:</p>

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- representing employees in dealings with employers relating to personal, social and economic matters
- ensuring compliance with the applicable laws, regulations, occupational health and safety rules, collective agreements and company agreements that are in place to protect employees
- cooperating in workplace design, the regulation of working hours, personnel planning and further training
- These bodies must also be heard whenever an employee is dismissed, otherwise the dismissal is invalid.

The rules on employee representation at the workplace are set out in the [Works Constitution Act]([https://www.gesetze-im-internet.de/englisch\\_betrvg/index.html](https://www.gesetze-im-internet.de/englisch_betrvg/index.html)). For companies governed by public law, employee representation is governed by the corresponding [Federal Employee Representation Act]([https://www.gesetze-im-internet.de/bpersvg\\_2021/](https://www.gesetze-im-internet.de/bpersvg_2021/)) (Bundespersönlichkeitsvertretungsgesetz), while for ecclesiastical institutions it is governed by the currently applicable \*\*Employee Representation Act (Mitarbeitervertretungsgesetz) or Employee Representation Regulation (Mitarbeitervertretungsordnung)\*\*.

**\*\*Electing a works council or a staff committee\*\***

A works council or staff committee must be formed of at least five employees over the age of 18, at least three of whom must have worked for the company or the department for at least 6 months. Foreign employees have the same rights to vote and stand as a candidate as their German colleagues.

**\*\*Employee participation on supervisory boards\*\***

Employee participation (also referred to as co-determination) at management level ensures that employees are involved in any important financial planning and decision-making at the company. This rule applies to companies that have 500 or more

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employees and take the form of a share capital company (Kapitalgesellschaft), such as a stock corporation (Aktiengesellschaft) or a limited liability company (Gesellschaft mit beschränkter Haftung, GmbH).

Employees have the right to elect representatives to the **\*\*supervisory boards\*\*** of these companies, where they are able to participate in the company's decision-making processes. Both company employees and trade union representatives may be elected to supervisory boards.

The supervisory board is responsible for **\*\*monitoring the management of a company\*\***, and may require that its prior approval be obtained for certain actions.

There are various laws that govern the extent of employee participation on the supervisory boards of companies and groups: Employees of companies with 500 or more employees have the right to elect one third of the members of the supervisory board of a share capital company ([One-Third Participation Act](<https://www.gesetze-im-internet.de/drittelbg/BJNR097410004.html>) [Drittelbeteiligungsgesetz]). Employees of companies with 2 000 or more employees have the right to elect half of the members of the supervisory board of a share capital company ([Co-determination Act](<https://www.gesetze-im-internet.de/mitbestg/BJNR011530976.html>) [Mitbestimmungsgesetz]).

**\*\*Office for the Equal Treatment of EU Workers\*\***

In 2014, the EU adopted Directive 2014/54/EU on measures facilitating the exercise of rights conferred on workers in the context of freedom of movement for workers. This legislation required all Member States to establish **\*\*national advice centres\*\*** to promote equal treatment. In Germany, the **\*\*Office for the Equal Treatment of EU Workers\*\*** was established in 2016. The Office provides employees from other EU Member States and their family members with independent legal and/or other support in the form of advice and referrals. Among other things, the Office promotes

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	networking with trade unions, employer associations and government and non-government institutions.
Erforderliche Unterlagen	
Voraussetzungen	
Kosten	
Verfahrensablauf	
Bearbeitungsdauer	
Frist	
weiterführende Informationen	<ul style="list-style-type: none"> <li>• Further information on living and working conditions in all EU Member States, including employee representation, is available on the European Commissions [EURES portal](https://eures.europa.eu/living-and-working/living-and-working-conditions/living-and-working-conditions-germany_en)</li> <li>• Information provided by the Federal Ministry of Labour and Social Affairs on corporate co-determination:[BMAS - Mitbestimmung - Eine gute Sache.](https://bmas.de/EN/Services/Publications/a741e-co-determination.html) [Co-determination - a good thing]</li> <li>• Information provided by the German Trade Union Confederation for workers posted to Germany via the [Faire Mobilität (Fair Mobility) porta](https://www.faire-mobilitaet.de/en)</li> <li>• Information (in several foreign languages) on working and living, and guidance on issues relating to the free movement of workers, via the information portal of the [Office for the Equal Treatment of EU Workers (EUGS)](https://eu-gleichbehandlungsstelle.de/eugs-en)</li> <li>• Advice centre search tool for quickly and easily finding contact details for your local centre</li> </ul>
Hinweise	
Rechtsbehelf	
Kurztext	

Modul	Sachverhalt
Ansprechpunkt	
Zuständige Stelle	
Formulare	
Ursprungsportal	Rules on staff representation, Vorschriften für die Arbeitnehmervertretung